UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER
JOHNSON, GREGORY L

ART UNIT	PAPER NUMBER
3691	

NOTIFICATION DATE	DELIVERY MODE
05/16/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspto@beemlaw.com

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>18 August 2010</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-62</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-62</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

        1. ☐ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. _____.

        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Request for Continued Examination under 37 CFR 1.1141

1.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August

18, 2010 has been entered.

Status of Claims

2.   Claims 1, 5, 7-8, 36, 38-43 and 55 are amended. Claims 2-4, 6, 9-35, 37, 44-54

and 56-62 are as previously presented. **Claims 1-62 are pending**.

Response to Arguments

3.   Applicant's arguments with respect to claims 1-62 have been considered but are

moot in view of the new ground(s) of rejection.

Claim Objections

4.   **Claim 37** is objected to because of the following informalities: Claim 37 recites

"… the digital computer programmed to process the input data to produce an electronic

file including data representing <u>a external</u> residential mortgage …" Perhaps the "a"

should be "an."

5.   **Claims 38 and 39** are objected to because of the following informalities: The

claims recite "programming the digital computer *to* ...." The subject matter following

this phrase has been considered as being intended use.

Claim Rejections - 35 USC § 112

6.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7.   **Claims 1-36, 38-47, 49-55, and 57-62** are rejected under 35 U.S.C. 112, first

paragraph, as failing to comply with the written description requirement. The claim(s)

contains subject matter which was not described in the specification in such a way as to

reasonably convey to one skilled in the relevant art that the inventor(s), at the time the

application was filed, had possession of the claimed invention.

8.   **Claims 1, 8, 36, 38-43 and 55** recite the term "consisting of"; there is no support

for this term in the specification. The original specification recited on page 2, "Closing

costs refer to any charges, fees, assessments and payments *that typically are paid at*

closing, including downpayments, etc. The original specification does not provide

support for the "closed-ended" claim language used for the groups and/or options as

recited in the claims.   For examination purposes, the term "consisting of" has been

interpreted as follows:

- Claims 1, 8 and 36 – "comprising at least one of"

- Claims 38-43 and 55 – "comprising more than one of"

Appropriate corrections are required.

Claims 2-7, 11-22, 25-35, 45, 59 and 61 are rejected to because of their

dependency on claim 1.

Claims 9-10, 23-24 and 46 are rejected to because of their dependency on claim 8.

Claims 47 and 49 are rejected to because of their dependency on claim 36 and 38,

respectively.

Claims 50 and 57 are rejected to because of their dependency on claim 39.

Claims 51, 58, 60 and 62 are rejected to because of their dependency on claim 40.

Claims 52 and 53 are rejected to because of their dependency on claim 41 and 42,

respectively.

Claims 44 and 54 are rejected to because of their dependency on claim 43.

9.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

10.   **Claims 1-62** are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

11.   **Claims 1, 8, 36, 38-43 and 55** recite the term "consisting of"; there is no support

for this term in the specification. The original specification recited on page 2, "Closing

costs refer to any charges, fees, assessments and payments _that typically are paid at_

closing, including downpayments, etc. This does not provide support for the "closed-

ended" claim language used for the groups and/or options as recited in the claims.   For

examination purposes, the term "consisting of" has been interpreted as follows:

- Claims 1, 8 and 36 – "comprising at least one of"

- Claims 38-43 and 55 – "comprising more than one of"

Appropriate corrections are required.

12.   **Claims 37, 38 and 40** recite the following phrases:

Claim 37

- a digital computer and data processing system comprising a digital computer

  in communication with an input device for receiving input data and with an

  output device, the digital computer programmed …

Claim 38

- a digital computer and data processing system comprising a digital computer

  electrically connected to an input device for inputting data and to an output

  device; and programming the digital computer to …

Claim 40

- a digital computer and data processing system comprising a digital computer

  electrically connected to an input device for inputting data and to an output

  device, said digital computer programmed to …

It is unclear which of the digital computer is actually programmed. For

examination purposes, the Examiner has interpreted that the "data processing system

comprising a digital computer" is the digital computer that is programmed. Appropriate

corrections are required.

13.   **Claim 56** recites the following limitations:

- associating, with said computer, card activity with an expense that is an

  external residential expense and a non-mortgage residential expense,

- said expenses selected by a cardholder computer from a plurality of

  external residential expense options;

- crediting, with said computer, an amount to the residential expense

  responsive to the card activity; and

- generating, with said output device, output including the external

  residential expense crediting.

It is unclear if "the expense" (i.e. singular item) that is associated with card

activity, is "an external residential expense" or "a non-mortgage residential expense" or

the expense is both "an external residential expense" and "a non-mortgage residential

expense."

If card activity is associated with "a non-mortgage residential expense" and the

crediting an amount to "a non-mortgage residential expense"; then the outputting

including the "external residential expense crediting" contradicts the crediting step.

For examination purposes, the above limitations have been interpreted as:

- associating, with said computer, card activity with an expense that is an

  external residential expense and a non-mortgage residential expense [as

  interpreted "an expense" is classified as being both an external residential

  expense and a non-mortgage residential expense],

- said expense[[s]] selected by a cardholder computer from a plurality of

  external residential expense options;

- crediting, with said computer, an amount to the residential expense

  responsive to the card activity; and

- generating, with said output device, output including the ~~external~~ residential

  expense crediting.

Appropriate corrections are required.

Claims 2-7, 11-22, 25-35, 45, 59 and 61 are rejected to because of their dependency

on claim 1.

Claims 9-10, 23-24 and 46 are rejected to because of their dependency on claim 8.

Claims 47, 48 and 49 are rejected to because of their dependency on claim 36, 37

and 38, respectively.

Claims 50 and 57 are rejected to because of their dependency on claim 39.

Claims 51, 58, 60 and 62 are rejected to because of their dependency on claim 40.

Claims 52 and 53 are rejected to because of their dependency on claim 41 and 42,

respectively.

Claims 44 and 54 are rejected to because of their dependency on claim 43.

Claim Rejections - 35 USC § 103

14.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

15.   The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating obviousness or nonobviousness.

16.   **Claims 1-5, 7-9, 11, 36, 38-41, 43-47, 49-52 and 54** are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan, Pat. No. 6,386,444 (hereinafter "Sullivan"), in view of Forward, Pat. No. 6,578,011 (hereinafter "Forward").

Regarding claim 1, Sullivan discloses a method of using an apparatus for card activity-based residential mortgage expense crediting, the method including:

- providing a digital electrical computer electrically connected to an input device and to an output device (col.4, lines 22-33, col.5, lines 55-65, col.7, lines 1- 21, and col.8, lines 5-28);

- associating, with said digital computer, data input at said input device, the data representing card activity with further input data representing an external residential mortgage expense (col.5, line 66 thru col.6, line 18 and col.6, lines 38-67; via card usage associated with home insurance, mortgage insurance, flood insurance and boat insurance);

- crediting, with said digital computer and according to the external residential mortgage expense, an amount to the external residential mortgage expense responsive to the card activity (col.5, line 66 thru col.6, line 18; col.6, lines 38-67; and col.8, lines 5-50; Examiner notes that the payment is applying some of the amount such as 1%); and

- generating, at the output device, output including the amount corresponding to the external residential mortgage expense crediting (col.6, lines 38-67 and col.8, lines 5-50).

Sullivan does not disclose the following element; however, Forward discloses the element in which said data representing the external residential mortgage expense [is from] a group consisting of _(i.e. comprising at least one of)_ a downpayment, an equity sharing cost, rental assistance, a rental contribution, a rent-to-own credit or payment, an inspection, an appraisal, a credit report, a special assessment, an impact fee, a new construction fee, a homeowner assessment, a homeowner association due, a tax account, a hazard account, an escrow account, a stamp, a government fee, a tax, a realtor fee, a recording fee, a title endorsement, a tax certificate, a wire transfer and courier fee, a title and closing fee, flood certificates, a discount point, an origination fee, an underwriting fee, a processing fee, a review and funding fee, a tax service fee, an environmental and termite inspection, a radon test, a lot cost, land cost, development cost, infrastructure cost, an architect fee, an engineering fee, a surveying fee, a material cost, _landscaping (col.5, lines 20-40)_, a water right, a riparian right, a mitigation fee, an attorneys' fee, a membership fee, parking space acquisition, garage maintenance, appliance acquisition or upgrade cost, a material upgrade, a dockage fee, a marina fee, a common area fee, a house-hunting cost, a fix- up cost for work and materials required to close the loan, a mortgage, a closing cost, and rent; crediting, with said digital computer and according to the external residential expense option that has been selected, an amount to the external residential expense responsive to the card activity (col.5, lines 20-40 and col.6, lines 42-67); applying, with said digital computer, some of

the amount to produce a payment for the expense (col.5, lines 20-40 and col.6, lines 42-67); and generating, at said output device, output including the amount corresponding to the payment (col.5, lines 20-40, col.6, lines 42-67 and col.7, line 51 thru col.8, line 33).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention as taught by Sullivan, with the options to apply the rebate to landscaping as disclose by Forward, since the claimed invention is simply a substitution of one known element for another (i.e. applying rebates to expenses associated with the purchase of a home), and one of ordinary skill in that art would have recognized that the results of the substitution were predictable. See MPEP 2143, Rational (B).

Regarding claim 2, Sullivan discloses applying some of the amount in a funds transfer to pay the expense (column 7, lines 51 thru column 8, line 3).

Regarding claims 3 and 4, Sullivan discloses wherein the associating card activity with an external residential expense includes the entering external mortgage identifying data; and carryout out the crediting according to the data (column 7, lines 1-22).

Regarding claims 5 and 9, Sullivan discloses wherein the external residential mortgage expense is a closing cost (column 6, lines 38-50).

Regarding claims 7 and 11, Sullivan discloses wherein the plurality of options includes more than two options (column 6, lines 38-59).

Regarding claim 8, Sullivan discloses a method of using an apparatus for card activity-based residential expense crediting, the method including:

- providing a digital electrical computer electrically connected to an input
  device and to an output device (col.4, lines 22-33, col.5, lines 55-65, col.7,
  lines 1- 21, and col.8, lines 5-28);

- associating card activity, with said digital computer, data at said input
  device, said data representing an external residential mortgage expense
  (col.5, line 66 thru col.6, line 18 and col.6, lines 38-67; via card usage
  associated with home insurance, mortgage insurance, flood insurance and
  boat insurance);

- crediting, with said digital computer and according to the external
  residential expense option that has been selected, an amount to the
  external residential expense responsive to the card activity (col.6, lines 38-
  67 and col.8, lines 5-50; Examiner notes that the payment is applying
  some of the amount such as 1%); and

- generating, at said output device, output including the amount
  corresponding to the payment (col.6, lines 38-67 and col.8, lines 5-50).

Sullivan does not disclose the following element; however, Forward discloses the
element in which said data representing the external residential mortgage expense [is
from] a group consisting of at least one of (i.e. comprising at least one of) a
downpayment, an equity sharing cost, rental assistance, a rental contribution, a rent-to-
own credit or payment, an inspection, an appraisal, a credit report, a special
assessment, an impact fee, a new construction fee, a homeowner assessment, a
homeowner association due, a tax account, a hazard account, an escrow account, a
stamp, a government fee, a tax, a realtor fee, a recording fee, a title endorsement, a tax

certificate, a wire transfer and courier fee, a title and closing fee, flood certificates, a

discount point, an origination fee, an underwriting fee, a processing fee, a review and

funding fee, a tax service fee, an environmental and termite inspection, a radon test, a

lot cost, land cost, development cost, infrastructure cost, an architect fee, an

engineering fee, a surveying fee, a material cost, _landscaping (col.5, lines 20-40)_, a

water right, a riparian right, a mitigation fee, an attorneys' fee, a membership fee,

parking space acquisition, garage maintenance, appliance acquisition or upgrade cost,

a material upgrade, a dockage fee, a marina fee, a common area fee, a house-hunting

cost, a fix- up cost for work and materials required to close the loan, a mortgage, a

closing cost, and rent; crediting, with said digital computer and according to the external

residential expense option that has been selected, an amount to the external residential

expense responsive to the card activity (col.5, lines 20-40 and col.6, lines 42-67);

applying, with said digital computer, some of the amount to produce a payment for the

expense (col.5, lines 20-40 and col.6, lines 42-67); and generating, at said output

device, output including the amount corresponding to the payment (col.5, lines 20-40,

col.6, lines 42-67 and col.7, line 51 thru col.8, line 33).

It would have been obvious to one of ordinary skill in the art at the time of

Applicant's invention to modify the invention as taught by Sullivan, with the options to

apply the rebate to landscaping as disclose by Forward, since the claimed invention is

simply a substitution of one known element for another (i.e. applying rebates to

expenses associated with the purchase of a home), and one of ordinary skill in that art

would have recognized that the results of the substitution were predictable. See MPEP

2143, Rational (B).

Regarding claim 36, Sullivan discloses a method of using an apparatus for
carrying out card activity-based residential expense crediting, the method including:

- responding to a cardholder selecting over the Internet from a plurality of
  external residential mortgage expense options by forming a combination in
  an envelope (col.6, lines 38-67 and col.8, lines 5-50; via a variety of
  different types of insurance and statement (bill) issued via mail); and

- a statement of showing the card activity and the crediting according to the
  external residential expense option that has been selected (col.8, lines 5-
  50).

Sullivan does not disclose the following elements; however, Forward discloses a
check printed for the payment of the expense, according to the external residential
expense option that has been selected (col.6, lines 42-52); a coupon printed for making
the payment with the check (col.6, lines 42-52), wherein the option corresponds to a
member of a group consisting of at least one of (i.e. comprising at least one of) a
downpayment, an equity sharing cost, rental assistance, a rental contribution, a rent-to-
own credit or payment, an inspection, an appraisal, a credit report, a special
assessment, an impact fee, a new construction fee, a homeowner assessment, a
homeowner association due, a tax account, a hazard account, an escrow account, a
stamp, a government fee, a tax, a realtor fee, a recording fee, a title endorsement, a tax
certificate, a wire transfer and courier fee, a title and closing fee, flood certificates, a
discount point, an origination fee, an underwriting fee, a processing fee, a review and
funding fee, a tax service fee, an environmental and termite inspection, a radon test, a
lot cost, land cost, development cost, infrastructure cost, an architect fee, an

engineering fee, a surveying fee, a material cost, _landscaping (col.5, lines 20-40)_, a

water right, a riparian right, a mitigation fee, an attorneys' fee, a membership fee,

parking space acquisition, garage maintenance, appliance acquisition or upgrade cost,

a material upgrade, a dockage fee, a marina fee, a common area fee, a house-hunting

cost, a fix- up cost for work and materials required to close the loan, a mortgage, a

closing cost, and rent; crediting, with said digital computer and according to the external

residential expense option that has been selected, an amount to the external residential

expense responsive to the card activity (col.5, lines 20-40 and col.6, lines 42-67);

applying, with said digital computer, some of the amount to produce a payment for the

expense (col.5, lines 20-40 and col.6, lines 42-67); and generating, at said output

device, output including the amount corresponding to the payment (col.5, lines 20-40,

col.6, lines 42-67 and col.7, line 51 thru col.8, line 33).

It would have been obvious to one of ordinary skill in the art at the time of

Applicant's invention to modify the invention as taught by Sullivan, with the options to

apply the rebate to landscaping as disclose by Forward, since the claimed invention is

simply a substitution of one known element for another (i.e. applying rebates to

expenses associated with the purchase of a home), and one of ordinary skill in that art

would have recognized that the results of the substitution were predictable. See MPEP

2143, Rational (B).

Regarding claim 38, Sullivan discloses a method for making a digital computer

system programmed for carrying out card activity-based external residential mortgage

expense crediting, the method including:

- providing a digital computer and data processing system comprising a digital computer electrically connected to an input device for inputting data and to an output device (col.4, lines 22-33, col.5, lines 55-65, col.7, lines 1- 21, and col.8, lines 5-28); and

- programming the digital computer to associate card activity with an external residential mortgage expense selected by a cardholder over the Internet from a plurality of external residential mortgage expense options to credit an amount to the external residential mortgage expense responsive to the card activity and according to the external residential mortgage expense option that has been selected (col.5, line 66 thru col.6, line 18; col.6, lines 38-67; and col.8, lines 5-50; Examiner notes that the payment is applying some of the amount such as 1%), and

- to generate output including the crediting, to form the digital computer system (col.6, lines 38-67 and col.8, lines 5-50).

Sullivan does not disclose the following element; however, Forward discloses the element in which the options consisting of more than one of (i.e. comprising more than one of) a downpayment, an equity sharing cost, rental assistance, a rental contribution, a rent-to-own credit or payment, an inspection, an appraisal, a credit report, a special assessment, an impact fee, a new construction fee, a homeowner assessment, a homeowner association due, a tax account, a hazard account, an escrow account, a stamp, a government fee, a tax, a realtor fee, a recording fee, a title endorsement, a tax certificate, a wire transfer and courier fee, a title and closing fee, flood certificates, a discount point, an origination fee, an underwriting fee, a processing fee, a review and

funding fee, a tax service fee, an environmental and termite inspection, a radon test, a

lot cost, land cost, development cost, infrastructure cost, an architect fee, an

engineering fee, a surveying fee, a material cost, _landscaping (col.5, lines 20-40)_, a

water right, a riparian right, a mitigation fee, an attorneys' fee, a membership fee,

parking space acquisition, garage maintenance, appliance acquisition or upgrade cost

(col.5, lines 20-40; via a free or reduced cost appliance), a material upgrade, a dockage

fee, a marina fee, a common area fee, a house-hunting cost, a fix- up cost for work and

materials required to close the loan, a mortgage, a closing cost, and rent; crediting, with

said digital computer and according to the external residential expense option that has

been selected, an amount to the external residential expense responsive to the card

activity (col.5, lines 20-40 and col.6, lines 42-67); applying, with said digital computer,

some of the amount to produce a payment for the expense (col.5, lines 20-40 and col.6,

lines 42-67); and generating, at said output device, output including the amount

corresponding to the payment (col.5, lines 20-40, col.6, lines 42-67 and col.7, line 51

thru col.8, line 33).

It would have been obvious to one of ordinary skill in the art at the time of

Applicant's invention to modify the invention as taught by Sullivan, with the options to

apply the rebate to landscaping as disclose by Forward, since the claimed invention is

simply a substitution of one known element for another (i.e. applying rebates to

expenses associated with the purchase of a home), and one of ordinary skill in that art

would have recognized that the results of the substitution were predictable. See MPEP

2143, Rational (B).

Regarding claim 39, Sullivan discloses a method for making a digital computer

system programmed for carrying out card activity-based residential mortgage expense

crediting, the method including

- providing a data processing system comprising a digital computer

  electrically connected to an input device for inputting data and to an output

  device (col.4, lines 22-33, col.5, lines 55-65, col.7, lines 1- 21, and col.8,

  lines 5-28); and

- programming the digital computer to associate card activity with an external

  residential mortgage expense selected by a cardholder over the Internet

  from a plurality of external residential expense options to credit an amount

  to the residential mortgage expense responsive to the card activity, to apply

  some of the amount to produce a payment for the expense according to the

  external residential mortgage expense option that has been selected (col.5,

  line 66 thru col.6, line 18; col.6, lines 38-67; and col.8, lines 5-50; Examiner

  notes that the payment is applying some of the amount such as 1%), and

- to generate output including the amount credited (col.6, lines 38-67 and

  col.8, lines 5-50).

Sullivan does not disclose the following element; however, Forward discloses the

element in which the options consisting of more than one of (i.e. comprising more than

one of) a downpayment, an equity sharing cost, rental assistance, a rental contribution,

a rent-to-own credit or payment, an inspection, an appraisal, a credit report, a special

assessment, an impact fee, a new construction fee, a homeowner assessment, a

homeowner association due, a tax account, a hazard account, an escrow account, a

stamp, a government fee, a tax, a realtor fee, a recording fee, a title endorsement, a tax

certificate, a wire transfer and courier fee, a title and closing fee, flood certificates, a

discount point, an origination fee, an underwriting fee, a processing fee, a review and

funding fee, a tax service fee, an environmental and termite inspection, a radon test, a

lot cost, land cost, development cost, infrastructure cost, an architect fee, an

engineering fee, a surveying fee, a material cost, *landscaping (col.5, lines 20-40)*, a

water right, a riparian right, a mitigation fee, an attorneys' fee, a membership fee,

parking space acquisition, garage maintenance, appliance acquisition or upgrade cost

(col.5, lines 20-40; via a free or reduced cost appliance), a material upgrade, a dockage

fee, a marina fee, a common area fee, a house-hunting cost, a fix- up cost for work and

materials required to close the loan, a mortgage, a closing cost, and rent; crediting, with

said digital computer and according to the external residential expense option that has

been selected, an amount to the external residential expense responsive to the card

activity (col.5, lines 20-40 and col.6, lines 42-67); applying, with said digital computer,

some of the amount to produce a payment for the expense (col.5, lines 20-40 and col.6,

lines 42-67); and generating, at said output device, output including the amount

corresponding to the payment (col.5, lines 20-40, col.6, lines 42-67 and col.7, line 51

thru col.8, line 33).

It would have been obvious to one of ordinary skill in the art at the time of

Applicant's invention to modify the invention as taught by Sullivan, with the options to

apply the rebate to landscaping as disclose by Forward, since the claimed invention is

simply a substitution of one known element for another (i.e. applying rebates to

expenses associated with the purchase of a home), and one of ordinary skill in that art

would have recognized that the results of the substitution were predictable. See MPEP

2143, Rational (B).

Regarding claim 40, Sullivan discloses a digital computer system programmed

for carrying out card activity-based external residential mortgage expense crediting, the

computer system including:

- a digital computer and data processing system comprising a digital

  computer electrically connected to an input device for inputting data and to

  an output device (col.4, lines 22-33, col.5, lines 55-65, col.7, lines 1- 21,

  and col.8, lines 5-28),

- said digital computer programmed to associate card activity with an

  external residential mortgage expense selected by a cardholder over the

  Internet from a plurality of external residential expense options to credit an

  amount to the external residential mortgage expense responsive to the card

  activity and according to the external residential expense option that has

  been selected, to apply some of the amount to produce a payment for the

  (col.5, line 66 thru col.6, line 18; col.6, lines 38-67; and col.8, lines 5-50;

  Examiner notes that the payment is applying some of the amount such as

  1%); and

- to generate output including a statement of showing the card activity and

  the crediting (col.6, lines 38-67 and col.8, lines 5-50).

Sullivan does not disclose the following elements; however, Forward discloses a

generate[d] output including at least two of: a check printed for the payment of the

expense (col.6, lines 42-52); a coupon printed for making the payment with the check

(col.6, lines 42-52); wherein the options consisting of more than one of _(i.e. comprising_

more than one of) a downpayment, an equity sharing cost, rental assistance, a rental

contribution, a rent-to-own credit or payment, an inspection, an appraisal, a credit

report, a special assessment, an impact fee, a new construction fee, a homeowner

assessment, a homeowner association due, a tax account, a hazard account, an

escrow account, a stamp, a government fee, a tax, a realtor fee, a recording fee, a title

endorsement, a tax certificate, a wire transfer and courier fee, a title and closing fee,

flood certificates, a discount point, an origination fee, an underwriting fee, a processing

fee, a review and funding fee, a tax service fee, an environmental and termite

inspection, a radon test, a lot cost, land cost, development cost, infrastructure cost, an

architect fee, an engineering fee, a surveying fee, a material cost, _landscaping (col.5,_

lines 20-40), a water right, a riparian right, a mitigation fee, an attorneys' fee, a

membership fee, parking space acquisition, garage maintenance, appliance acquisition

or upgrade cost _(col.5, lines 20-40; via a free or reduced cost appliance)_, a material

upgrade, a dockage fee, a marina fee, a common area fee, a house-hunting cost, a fix-

up cost for work and materials required to close the loan, a mortgage, a closing cost,

and rent; crediting, with said digital computer and according to the external residential

expense option that has been selected, an amount to the external residential expense

responsive to the card activity (col.5, lines 20-40 and col.6, lines 42-67); applying, with

said digital computer, some of the amount to produce a payment for the expense (col.5,

lines 20-40 and col.6, lines 42-67); and generating, at said output device, output

including the amount corresponding to the payment (col.5, lines 20-40, col.6, lines 42-

67 and col.7, line 51 thru col.8, line 33).

It would have been obvious to one of ordinary skill in the art at the time of

Applicant's invention to modify the invention as taught by Sullivan, with the options to

apply the rebate to landscaping as disclose by Forward, since the claimed invention is

simply a substitution of one known element for another (i.e. applying rebates to

expenses associated with the purchase of a home), and one of ordinary skill in that art

would have recognized that the results of the substitution were predictable. See MPEP

2143, Rational (B).

Regarding claim 41, Sullivan discloses a digital computer system programmed

for carrying out card activity-based residential mortgage expense crediting, the computer

system including:

- a data processing system comprising a digital computer electrically

  connected to an input device for inputting data and to an output device

  (col.4, lines 22-33, col.5, lines 55-65, col.7, lines 1- 21, and col.8, lines 5-

  28),

- said digital computer programmed to associate card activity with an

  external mortgage expense selected by a cardholder from a plurality of

  external residential expense options over the Internet to credit an amount to

  the external residential mortgage expense responsive to the card activity

  and according to the external residential expense option that has been

  selected, to apply some of the amount to produce a payment for the (col.5,

  line 66 thru col.6, line 18; col.6, lines 38-67; and col.8, lines 5-50; Examiner

  notes that the payment is applying some of the amount such as 1%); and

- to generate output including a statement of showing the card activity and the credit (col.6, lines 38-67 and col.8, lines 5-50).

Sullivan does not disclose the following elements; however, Forward discloses a generate[d] output including at least two of: a check printed for the payment of the expense (col.6, lines 42-52); a coupon printed for making the payment with the check (col.6, lines 42-52); wherein the options consisting of more than one of <u>(i.e. comprising more than one of)</u> a downpayment, an equity sharing cost, rental assistance, a rental contribution, a rent-to-own credit or payment, an inspection, an appraisal, a credit report, a special assessment, an impact fee, a new construction fee, a homeowner assessment, a homeowner association due, a tax account, a hazard account, an escrow account, a stamp, a government fee, a tax, a realtor fee, a recording fee, a title endorsement, a tax certificate, a wire transfer and courier fee, a title and closing fee, flood certificates, a discount point, an origination fee, an underwriting fee, a processing fee, a review and funding fee, a tax service fee, an environmental and termite inspection, a radon test, a lot cost, land cost, development cost, infrastructure cost, an architect fee, an engineering fee, a surveying fee, a material cost, <u>*landscaping (col.5, lines 20-40)*</u>, a water right, a riparian right, a mitigation fee, an attorneys' fee, a membership fee, parking space acquisition, garage maintenance, appliance acquisition or upgrade cost <u>*(col.5, lines 20-40; via a free or reduced cost appliance)*</u>, a material upgrade, a dockage fee, a marina fee, a common area fee, a house-hunting cost, a fix-up cost for work and materials required to close the loan, a mortgage, a closing cost, and rent; crediting, with said digital computer and according to the external residential expense option that has been selected, an amount to the external residential expense

responsive to the card activity (col.5, lines 20-40 and col.6, lines 42-67); applying, with

said digital computer, some of the amount to produce a payment for the expense (col.5,

lines 20-40 and col.6, lines 42-67); and generating, at said output device, output

including the amount corresponding to the payment (col.5, lines 20-40, col.6, lines 42-

67 and col.7, line 51 thru col.8, line 33).

It would have been obvious to one of ordinary skill in the art at the time of

Applicant's invention to modify the invention as taught by Sullivan, with the options to

apply the rebate to landscaping as disclose by Forward, since the claimed invention is

simply a substitution of one known element for another (i.e. applying rebates to

expenses associated with the purchase of a home), and one of ordinary skill in that art

would have recognized that the results of the substitution were predictable. See MPEP

2143, Rational (B).

Regarding claim 43, Sullivan discloses a method of using an apparatus for

carrying out computerized card activity-based external residential expense crediting, the

method including:

- providing a digital electrical computer electrically connected to an input

    device and to an output device (col.4, lines 22-33, col.5, lines 55-65, col.7,

    lines 1- 21, and col.8, lines 5-28); and

- crediting, with said computer, card activity to an external residential

    mortgage expense payment in response to a cardholder instruction

    received over the Internet, the instruction comprising a selection by a

    cardholder from a plurality of external residential expense options (col.5,

line 66 thru col.6, line 18; col.6, lines 38-67; and col.8, lines 5-50; Examiner

notes that the payment is applying some of the amount such as 1%),

- said crediting reflected in output produced at said output device (col.6, lines

    38-67 and col.8, lines 5-50).

Sullivan does not disclose the following elements; however, Forward discloses

the options consisting of more than one of _(i.e. comprising more than one of)_ a

downpayment, an equity sharing cost, rental assistance, a rental contribution, a rent-to-

own credit or payment, an inspection, an appraisal, a credit report, a special

assessment, an impact fee, a new construction fee, a homeowner assessment, a

homeowner association due, a tax account, a hazard account, an escrow account, a

stamp, a government fee, a tax, a realtor fee, a recording fee, a title endorsement, a tax

certificate, a wire transfer and courier fee, a title and closing fee, flood certificates, a

discount point, an origination fee, an underwriting fee, a processing fee, a review and

funding fee, a tax service fee, an environmental and termite inspection, a radon test, a

lot cost, land cost, development cost, infrastructure cost, an architect fee, an

engineering fee, a surveying fee, a material cost, _landscaping (col.5, lines 20-40)_, a

water right, a riparian right, a mitigation fee, an attorneys' fee, a membership fee,

parking space acquisition, garage maintenance, appliance acquisition or upgrade cost

(col.5, lines 20-40; via a free or reduced cost appliance), a material upgrade, a dockage

fee, a marina fee, a common area fee, a house-hunting cost, a fix- up cost for work and

materials required to close the loan, a mortgage, a closing cost, and rent; crediting, with

said digital computer and according to the external residential expense option that has

been selected, an amount to the external residential expense responsive to the card

activity (col.5, lines 20-40 and col.6, lines 42-67); applying, with said digital computer,

some of the amount to produce a payment for the expense (col.5, lines 20-40 and col.6,

lines 42-67); and generating, at said output device, output including the amount

corresponding to the payment (col.5, lines 20-40, col.6, lines 42-67 and col.7, line 51

thru col.8, line 33).

It would have been obvious to one of ordinary skill in the art at the time of

Applicant's invention to modify the invention as taught by Sullivan, with the options to

apply the rebate to landscaping as disclose by Forward, since the claimed invention is

simply a substitution of one known element for another (i.e. applying rebates to

expenses associated with the purchase of a home), and one of ordinary skill in that art

would have recognized that the results of the substitution were predictable. See MPEP

2143, Rational (B).

Regarding claim 44, Sullivan does not disclose the following limitation; however,

Forward discloses wherein the crediting is carried out with the external residential

mortgage expense payment comprising interest (col.5, lines 20-40 and col.6, lines 42-

67).

Regarding claims 45-47, 49-52 and 54, Sullivan discloses obtaining identifying

data for the external residential expense; and wherein the crediting is carried out with

amount comprising a reward (col.5, line 66 thru col.6, line 18; and col.6, lines 38-59).

17.   **Claims 6 and 10** are rejected under 35 U.S.C. 103(a) as being unpatentable

over Sullivan and Forward as applied to claims 8 and 45 above, and further in view of

Hastings, Pat. No. 6,751,596 (hereinafter "Hastings").

Regarding claims 6 and 10, Sullivan teaches wherein the external residential expense is insurance (column 6, lines 38-59). Sullivan fails to teach that the external residential expense is a downpayment or an actual mortgage. Hastings teaches a system and method for tracking, monitoring and supporting self-procuring principals in real estate transactions that take closing costs, downpayments and mortgages into account (column 15, lines 36-50). Hastings further teaches that downpayments are major impediments to purchasing a home (column 1, lines 15-32). Further, a downpayment is a type of closing costs, as are the mortgage insurance and flood insurance teachings of Sullivan.

Therefore it would have been obvious to one of ordinary skill in the art to modify the teachings of Sullivan to include downpayments because they are external residential mortgage expenses needing to be paid by the customer and the customer would thus have an incentive to use the card to provide payments for these expenses to apply to these costs to help with the purchase of a home similar to mortgage insurance and flood insurance.

18.   **Claims 12-22, 25-26, 28-35 and 57-62** are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan and Forward as applied to claims 1, 39-40 and 45 above, and further in view of Johnson et al., Pat. No. 6,999,943 (hereinafter "Johnson").

Regarding claims 12-22, 25-26, 28-35 and 57-62, Sullivan fails to teach the processing and applying of payment as discussed in these claims. Johnson teaches multiple payment methods (Abstract, column 24, lines 60 thru column 25, line 8).

Therefore it would have been obvious to one of ordinary skill in the art at the time

of the Applicant's invention to modify the teachings of Sullivan to include the processing

and application of payments by various methods because it provides a system desirable

to the customer by giving the customer options on how to process and apply payments

to that the system can better meet the needs of the parties involved in the transactions.

19.   **Claims 23-24 and 27** are rejected under 35 U.S.C. 103(a) as being unpatentable

over Sullivan and Forward as applied to claims 1 and 8 above, and further in view of

Pettit, Pat. No. 4,722,554 (hereinafter "Pettit").

Regarding claims 23-24 and 27, Sullivan fails to specify printing a check for the

amount; printing a coupon with the amount for carrying out the payment of the mortgage

with the check; and combining the check and the coupon with a statement of the card

activity in an envelope so as to address the envelope to the cardholder. Pettit teaches

in alternative value paper refund form in which a negotiable instrument, nominally a

check, and one or more coupons. The form is typically used for a rebate or refund

(column 3, lines 30-47 and column 9, lines 3-25).

It would have been obvious to one of ordinary skill in the art at the time of the

Applicant's invention to modify the teachings of Sullivan and include payment through

postage because it is an efficient manner to transmit payment information stemming

from a rebate or refund and is extremely well known in the financial and billing arts.

20.   **Claims 37 and 48** are rejected under 35 U.S.C. 103(a) as being unpatentable

over Sullivan, in view of Forward and Gulati, Pat. No. 6,778,968 (hereinafter "Gulati").

Regarding claim 37, Sullivan discloses an apparatus to carry out card activity-based residential mortgage crediting, the apparatus including:

- a digital computer and data processing system comprising a digital computer in communication with an input device for receiving input data and with an output device, the digital computer programmed to process the input data to produce an electronic file including data representing _a_ _external_ residential mortgage (col.4, lines 22-33, col.5, lines 55-65, col.7, lines 1- 21, and col.8, lines 5-28),

- to credit an amount to the external residential mortgage responsive to card activity (col.5, line 66 thru col.6, line 18; col.6, lines 38-67; and col.8, lines 5-50; Examiner notes that the payment is applying some of the amount such as 1%), and

- to generate output, at the output device, the data including the card activity credit (col.4, lines 22-33; col.5, line 55 thru col.6, line 18; col.6, lines 38-67; col.7, lines 1- 21; and col.8, lines 5-50; via associated with home insurance/mortgage insurance and Examiner notes that the payment is applying some of the amount such as 1%);

- wherein the file is accessed to communicate the data over the Internet representing the external residential mortgage to a lender computer (e.g. file is accessible by the entity which accepts the rebate; col.8, lines 5-50, via an insurance company).

Sullivan does not teach the entity accepting the rebate is a lender computer; however, Forward discloses this via mortgage company / lender offering incentives,

such as free mortgage points towards closing costs and better mortgage rates (col.6, line 53 thru col.7, line 26).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the aforementioned limitation as taught by Forward within Sullivan for the motivation to provide a mutually beneficial environment for bringing together buyers and sellers for the purchase of items that typically involve a commission for a third party paid by either the buyer or the seller of the item (col.2, lines 5-10).

Neither Sullivan nor Forward discloses the following element; however, Gulati discloses the element – the lender computer facilitates a computer-aided mortgage auction that produces a proposed new mortgage (col.10, lines, 8-43; col.15, lines 7-29; col.15, line 61 thru col.16, line 3; col.17, line 61 thru col.18, line 17; col.21, lines 33-58; and col.22 lines 22-48).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the aforementioned limitation as taught by Forward within Sullivan for the motivation to provide a method for controlling the exchanging of ownership interests in objects on a secondary market, wherein the objects have a dynamic value affected by time-varying external factors (col.6, lines 8-20).

Regarding claim 48, Sullivan discloses wherein the programming includes programming to carry out the obtaining identifying data for the external residential expense, and wherein said amount comprises a reward (col.5, line 66 thru col.6, line 18; and col.6, lines 38-59).

21. **Claims 42, 53 and 55** are rejected under 35 U.S.C. 103(a) as being

unpatentable over Sullivan, in view of Fogelson, Pat. No. 7,076,455 (hereinafter

"Fogelson").

Regarding claim 42, Sullivan discloses a method of using an apparatus for

carrying out computerized card activity-based non-mortgage residential mortgage

expense crediting, the method including:

- providing a digital electrical computer electrically connected to an input

  device and to an output device (col.4, lines 22-33, col.5, lines 55-65, col.7,

  lines 1- 21, and col.8, lines 5-28);

- associating, with said digital computer, data input at said input device, the

  data representing card activity with further input data representing an

  external residential mortgage expense (col.5, line 66 thru col.6, line 18

  and col.6, lines 38-67; via card usage associated with home insurance,

  mortgage insurance, flood insurance and boat insurance);

- crediting, with said computer, card activity to an non-mortgage expense

  payment in response to a cardholder instruction received over the Internet

  (col.5, line 66 thru col.6, line 18; col.6, lines 38-67; and col.8, lines 5-50;

  Examiner notes that the payment is applying some of the amount such as

  1%),

- the instruction comprising a selection by a cardholder from a plurality of

  residential non-mortgage expense options (col.5, line 66 thru col.6, line

  18; col.6, lines 38-59; and col.8, lines 5-28; via a variety of different types

  of insurance),

- said crediting reflected in output produced at said output device (col.6, lines 38-67 and col.8, lines 5-50).

Sullivan does not disclose the following elements; however, Fogelson discloses the options consisting of more than one of (i.e. comprising more than one of) a, rental assistance, a rental contribution, a rent-to-own credit or payment, a special assessment, _a lot cost (col.8, lines 22-46)_, land cost, a membership fee, parking space acquisition, garage maintenance, a dockage fee, a marina fee, a common area fee, _a house-hunting cost (col.2, lines 10-21 and col.7, line 47-53; via collecting a fee or commission based upon the received selection made by the customer)_, and rent.

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the aforementioned elements as taught by Fogelson within Sullivan for the motivation to provide a method for servicing a customer of a home builder or general contractor by a third-party website provider (col.2, lines 10-21).

Regarding claim 53, Sullivan discloses computing a reward used in carrying out said crediting (col.5, line 66 thru col.6, line 18; and col.6, lines 38-59).

Regarding claim 55, Sullivan discloses a computer-aided method of using an apparatus for card activity-based residential expense crediting, the method including:

- providing a digital electrical computer electrically connected to an input device and to an output device (col.4, lines 22-33, col.5, lines 55-65, col.7, lines 1- 21, and col.8, lines 5-28);

- associating, with said computer, card activity with an external residential mortgage expense and with a non-mortgage residential expense, said expenses selected by a cardholder computer from a plurality of external

residential expense options over the Internet (col.5, line 66 thru col.6, line

18 and col.6, lines 38-67; via card usage associated with home insurance,

mortgage insurance, flood insurance and boat insurance);

- crediting, with said computer, an amount to the external residential

    mortgage expense responsive to the card activity (col.5, line 66 thru col.6,

    line 18; col.6, lines 38-67; and col.8, lines 5-50; Examiner notes that the

    payment is applying some of the amount such as 1%); and

- generating, with said output device, output including the external

    residential mortgage expense crediting (col.6, lines 38-67 and col.8, lines

    5-50).

Sullivan does not disclose the following elements; however, Fogelson discloses

the options consisting of more than one of (i.e. comprising more than one of) a, rental

assistance, a rental contribution, a rent-to-own credit or payment, a special assessment,

a lot cost (col.8, lines 22-46), land cost, a membership fee, parking space acquisition,

garage maintenance, a dockage fee, a marina fee, a common area fee, _a house-hunting_

cost (col.2, lines 10-21 and col.7, line 47-53; via collecting a fee or commission based

upon the received selection made by the customer), and rent.

It would have been obvious to one of ordinary skill in the art at the time of

Applicant's invention to include the aforementioned elements as taught by Fogelson

within Sullivan for the motivation to provide a method for servicing a customer of a home

builder or general contractor by a third-party website provider (col.2, lines 10-21).

Claim Rejections - 35 USC § 102

22.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

23.   **Claim 56** is rejected under 35 U.S.C. 102(e) as being anticipated by Sullivan.

Regarding claim 56, Sullivan discloses a computer-aided method of using an

apparatus for card activity-based external residential expense crediting, the method

including:

- providing a digital electrical computer electrically connected to an input

  device and to an output device (col.4, lines 22-33, col.5, lines 55-65, col.7,

  lines 1- 21, and col.8, lines 5-28);

- associating, with said computer, card activity with <u>an expense</u> that is an

  external residential expense and a non-mortgage residential expense [as

  interpreted the <u>expense</u> is classified as being both an external residential

  expense and a non-mortgage residential expense] (col.5, line 66 thru

  col.6, line 18 and col.6, lines 38-67; via card usage associated with home

  insurance, mortgage insurance, flood insurance and boat insurance),

- said expenses selected by a cardholder computer from a plurality of

  external residential expense options (col.5, line 66 thru col.6, line 18;

col.6, lines 38-59; and col.8, lines 5-28; via a variety of different types of

insurance);

- crediting, with said computer, an amount to the residential expense

  responsive to the card activity (col.5, line 66 thru col.6, line 18; col.6, lines

  38-67; and col.8, lines 5-50; Examiner notes that the payment is applying

  some of the amount such as 1%); and

- generating, with said output device, output including the external

  residential expense crediting (col.6, lines 38-67 and col.8, lines 5-50).

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to GREGORY JOHNSON whose telephone number is

(571)272-2025. The examiner can normally be reached on Monday - Friday, 8:30AM -

5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, ALEXANDER KALINOWSKI can be reached on (571) 272-6771. The fax

phone number for the organization where this application or proceeding is assigned is

571-273-8300.

Information regarding the status of an application may be obtained from the

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/GREGORY JOHNSON/
Examiner, Art Unit 3691